

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

CRM-M No.20647 of 2018

Date of Decision: 25.09.2018

Sodhi Singh @ Satnam

....Petitioner

Versus

State of Punjab

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Narinder S. Lucky, Advocate
for the petitioner.

Mr. C.L. Pawar, Sr. D.A.G., Punjab.

DAYA CHAUDHARY, J.

Petitioner Sodhi Singh @ Satnam has filed the present petition under Section 439 Cr.P.C for grant of regular bail to him in case FIR No.149 dated 14.05.2017 registered under Section 22/68/85 of the NDPS Act at Police Station Phillaur, District Jalandhar.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas, he has not committed any offence. The FIR, in question, was registered on the basis of secret information. After getting the secret information, a Naka was laid down and the petitioner was arrested with some narcotic substance which is alleged to be recovered as 110 grams powder of *Alprazolam*. Learned counsel also submits that no other case under the NDPS Act is pending against the petitioner and he is in custody since 14.05.2017. At the end, learned counsel for the petitioner submits that the alleged recovery is a manufactured drug and *Alprazolam* is covered at serial No.30 of the Schedule appended to the

1985 Act but as per the recommendations of the Review Committee, *Alprazolam* is also covered by Schedule 'H' of the Drugs and Cosmetics Act, 1940 (here-in-after referred to as 'the 1940 Act'). Meaning thereby, the *Alprazolam* is covered under the 1940 Act and falls within the purview of Schedule 'H' of the 1940 Act and as such, the provisions of NDPS Act, 1985 are not applicable. Nothing is to be recovered from the petitioner. All witnesses are the official witnesses and there is no possibility that the petitioner may influence the witnesses or tamper with the evidence.

Learned State counsel has not disputed the custody period and also the fact that no other case under the NDPS Act is pending against the petitioner but he has opposed the submissions made by learned counsel for the petitioner on the ground of seriousness of offence.

Heard the arguments of learned counsel for the parties and have also perused the contents of the FIR as well as other documents available on the file.

The alleged recovery is 110 grams powder, which was found to be *Alprazolam* in the FSL report and the same is covered under Section 22 of the NDPS Act. Whether it falls under Section 21 or 22 of the NDPS Act is a debatable issue and the same would be considered at the time of trial. There is non-compliance of provisions of Section 50 of the NDPS Act as each accused has a right to be informed by having option as to whether one wants to be searched before the nearest Gazetted Officer or the Magistrate but no such opportunity was given to the petitioner. The search in the present case was made by the police official and non-compliance of Section 50 of the NDPS Act is there.

Under similar circumstances, accused Raja Singh, Prempal

Singh and Paramjit Singh @ Kala were released on regular bail by way of filing ***Criminal Misc. Nos. M-33128 of 2017, 26869 of 2018 and 17714 of 2018***, respectively.

By considering the custody of the petitioner, which is more than one year and four months and also the fact that no other case is pending against him; all witnesses are the official witnesses and there is no possibility that he may influence the witnesses or tamper with the evidence, the present petition is allowed and petitioner, namely, Sodhi Singh @ Satnam is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court.

(DAYA CHAUDHARY)
JUDGE

25.09.2018
gurpreet

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No